

ORDER NO. 5295

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;  
Michael Kubayanda, Vice Chairman;  
Mark Acton;  
Ann C. Fisher; and  
Ashley E. Poling

Competitive Product Prices  
Priority Mail Contract 150 (MC2016-11)  
Negotiated Service Agreements

Docket No. CP2016-12

ORDER APPROVING AMENDMENT TWO TO  
PRIORITY MAIL NEGOTIATED SERVICE AGREEMENT AND DENYING AS MOOT  
MOTION FOR TEMPORARY RELIEF

(Issued November 6, 2019)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail negotiated service agreement.<sup>1</sup> For the reasons discussed below, the Commission approves Amendment Two.

---

<sup>1</sup> USPS Notice of Amendment to Priority Mail Contract 150 and Motion for Temporary Relief, October 25, 2019 (Notice). The amendment is an attachment to the Notice (Amendment Two).

In Order No. 2799, the Commission approved the Priority Mail Contract 150 negotiated service agreement (Existing Agreement).<sup>2</sup> On October 25, 2019, the Postal Service filed notice that it has agreed to Amendment Two to the Existing Agreement. On October 29, 2019, the Commission issued a notice reopening this docket to consider Amendment Two, appointing a Public Representative, and providing interested persons with an opportunity to comment.<sup>3</sup>

The Postal Service intends for Amendment Two to become effective one business day after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.*

## II. COMMENTS

Comments were filed by the Public Representative.<sup>4</sup> No other person submitted comments. The Public Representative reviewed Amendment Two, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.*

## III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

---

<sup>2</sup> See Docket Nos. MC2016-11 and CP2016-12, Order Adding Priority Mail Contract 150 to the Competitive Product List, November 3, 2015 (Order No. 2799). The contract was later amended. See Order Approving Amendment One to Priority Mail Negotiated Service Agreement, April 25, 2019 (Order No. 5072); Order Approving Amendment Three to Priority Mail Negotiated Service Agreement, October 29, 2019 (Order No. 5287).

<sup>3</sup> See Docket No. CP2016-12, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, October 29, 2019.

<sup>4</sup> Public Representative Comments on Postal Service Notice of Amendment to Priority Mail Contract 150, November 4, 2019 (PR Comments).

*Cost considerations.* The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

Amendment Two revises the contract so that the contract partner pays rates of general applicability for packages originating from, or addressed to, a specific list of ZIP Codes. See Notice, Attachment A at 1-2. Amendment Two also revises the expiration date of the contract to February 1, 2020. *Id.* at 2.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Existing Agreement, as amended, is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The Commission will continue to review the cost coverage of the Existing Agreement, as amended, in its Annual Compliance Determination to ensure that rates cover costs.

*Other considerations.* The Postal Service states that Amendment Two shall become effective one business day after the date that the Commission completes its review. Notice at 1. The Existing Agreement, as amended, is set to expire February 1, 2020. *Id.* Attachment A at 2.

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

Along with the Notice, the Postal Service filed a motion for temporary relief seeking to extend the contract to provide the Commission time to review Amendment Two, if a separately-filed amendment (Amendment Three) extending the Existing Agreement to November 18, 2019 was not approved.<sup>5</sup> The Commission approved Amendment Three on October 29, 2019. Order No. 5287 at 3. Accordingly, the Motion for Temporary Relief is denied as moot.

In conclusion, the Commission approves the Existing Agreement, as amended.

#### IV. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission approves the Priority Mail Contract 150 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the revised expiration date, February 1, 2020.
3. The Postal Service's Motion for Temporary Relief is denied as moot.

By the Commission.

Darcie S. Tokioka  
Acting Secretary

---

<sup>5</sup> See Notice at 2 (Motion for Temporary Relief); USPS Notice of Amendment to Priority Mail Contract 150, Filed Under Seal, October 25, 2019, Appendix A at 1.